

The House Committee on Children and Youth offers the following substitute to HB 1300:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 41 of Title 31 of the Official Code of Georgia Annotated, relating to lead poisoning prevention, so as to extensively revise the provisions of Article 1 of said chapter relating to identification and abatement of lead hazards; to define terms; to amend provisions relating to renovation activities which are regulated; to change provisions relating to training certification, licensure, and regulation of persons performing renovation activities; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 41 of Title 31 of the Official Code of Georgia Annotated, relating to lead poisoning prevention, is amended by revising Article 1, relating to general provisions, as follows:

"ARTICLE 1

31-41-1.

This chapter shall be known and may be cited as the 'Georgia Lead Poisoning Prevention Act of 1994.'

31-41-2.

(a) The General Assembly finds that childhood lead poisoning is a devastating environmental health hazard to the children of this state. Exposure to even low levels of lead increases a child's risks of developing permanent reading and learning disabilities, intelligence quotient deficiencies, impaired hearing, reduced attention span, hyperactivity, behavior problems, and other neurological problems. It is estimated that thousands of children below the age of six are affected by lead poisoning in Georgia. Childhood lead poisoning is dangerous to the public health, safety, and general welfare.

(b) Childhood lead poisoning is the result of environmental exposure to lead. The most significant source of environmental lead is lead-based paint, particularly in housing built

prior to 1978, which becomes accessible to children as paint chips, house dust, and soil contaminated by lead-based paint. The danger posed by lead-based paint hazards can be controlled by abatement, renovation, or interim controls of lead-based paint or by measures to limit exposure to lead-based paint hazards.

(c) It is crucial that the identification of lead hazards and subsequent implementation of interim control, renovation, or abatement procedures be accomplished in a manner that does not result in additional harm to the public or the environment. Improper lead abatement or renovation constitutes a serious threat to persons residing in or otherwise using an affected structure or site, to those performing such work, to the environment, and to the general public.

(d) The General Assembly finds that it is in the public interest to establish minimum standards for the training and certification or licensure of all persons performing lead hazard reduction activities, ~~including~~ and for inspections, risk assessments, and planning and performance of interim controls, renovation, or abatement measures for such activities.

31-41-3.

As used in this chapter, the term:

(1) 'Abatement' means any set of measures designed to eliminate lead-based paint hazards, in accordance with standards developed by the board, including:

(A) Removal of lead-based paint and lead contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead contaminated soil; and

(B) All preparation, cleanup, disposal, and postabatement clearance testing activities associated with such measures.

(2) 'Accessible surface' means an interior or exterior surface painted with lead-based paint that is accessible for a young child to mouth or chew.

(2.1) 'Board' means the Board of Natural Resources of the State of Georgia.

(2.2) 'Child-occupied facility' means a building or portion of a building constructed prior to 1978, visited by the same child, six years of age or under, on at least two different days within the same week (Sunday through Saturday period), provided that each day's visit lasts at least three hours and the combined weekly visit lasts at least six hours. Child-occupied facilities include, but are not limited to, day-care centers, preschools, and kindergarten facilities.

(3) 'Department' means the Department of Natural Resources.

(4) 'Friction surface' means an interior or exterior surface that is subject to abrasion or friction, including certain window, floor, and stair surfaces.

(5) 'Impact surface' means an interior or exterior surface or fixture that is subject to damage by repeated impacts, for example, certain parts of door frames.

(6) 'Inspection' means a surface by surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

(7) 'Interim controls' means a measure or set of measures as specified by the board taken by the owner of a structure that are designed to control temporarily human exposure or likely exposure to lead-based paint hazards.

(8) 'Lead-based paint' means paint or other surface coatings that contain lead in excess of limits established by board regulation.

(9) 'Lead-based paint activities' means the inspection and assessment of lead hazards and the planning, implementation, and inspection of interim controls, renovation, and abatement activities ~~as determined by the department~~ at target housing and child-occupied facilities.

(10) 'Lead-based paint hazard' means any condition that causes exposure to lead from lead contaminated dust, lead contaminated soil, or lead contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established pursuant to Section 403 of the Toxic Substances Control Act.

(11) 'Lead contaminated dust' means surface dust in residential dwellings or in other facilities occupied or regularly used by children that contains an area or mass concentration of lead in excess of levels determined pursuant to Section 403 of the Toxic Substances Control Act.

(12) 'Lead contaminated soil' means bare soil on residential real property or on other sites frequented by children that contains lead at or in excess of levels determined to be hazardous to human health pursuant to Section 403 of the Toxic Substances Control Act.

(13) 'Lead contaminated waste' means any discarded material resulting from an abatement activity that fails the toxicity characteristics determined by the department.

(13.1) 'Lead dust sampling technician' means an individual employed to perform lead dust clearance sampling for renovation as determined by the department.

(14) 'Lead firm' means a company, partnership, corporation, sole proprietorship, association, or other business entity that employs or contracts with persons to perform lead-based paint activities.

(15) 'Lead inspector' means a person who conducts inspections to determine the presence of lead-based paint or lead-based paint hazards.

(16) 'Lead project designer' means a person who plans or designs abatement activities and interim controls.

(17) 'Lead risk assessor' means a person who conducts on-site risk assessments of lead hazards.

(18) 'Lead supervisor' means a person who supervises and conducts abatement of lead-based paint hazards.

(19) 'Lead worker' means any person performing lead hazard reduction activities.

(19.1) 'Minor repair and maintenance activities' means activities that disrupt six square feet or less of painted surface per room for interior activities or 20 square feet or less of painted surface for exterior activities where none of the work practices prohibited or restricted as determined by the department are used or where the work does not involve window replacement or demolition of painted surface areas. Jobs performed in the same room within 30 days are considered the same job for purposes of this definition.

(19.2) 'Renovation' means the modification of any target housing or child-occupied facility structure or portion thereof, that results in the disturbance of painted surfaces unless that activity is performed as part of an abatement activity. Renovation includes but is not limited to the removal, modification, re-coating, or repair of painted surfaces or painted components; the removal of building components; weatherization projects; and interim controls that disturb painted surfaces. A renovation performed for the purpose of converting a building, or part of a building into target housing or a child-occupied facility is a renovation. Such term shall not include minor repair and maintenance activities.

(19.3) 'Renovation firm' means a company, partnership, corporation, sole proprietorship or individual doing business, association, or other business entity that employs or contracts with persons to perform lead-based paint renovations as determined by the Department.

(19.4) 'Renovator' means an individual who either performs or directs workers who perform renovations.

(20) 'Risk assessment' means an on-site investigation to determine and report the existence, nature, severity, and location of lead-based paint hazards in or on any structure or site, including:

(A) Information gathering regarding the age and history of the structure and the occupancy or other use by young children;

(B) Visual inspection;

(C) Limited wipe sampling or other environmental sampling techniques;

(D) Other activity as may be appropriate; and

(E) Provision of a report explaining the results of the investigation.

(21) 'Target housing' means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child or children age six years or under

resides or is expected to reside in such housing for the elderly or persons with disabilities)
or any zero-bedroom dwelling.

31-41-4.

(a) There is established the Georgia Lead-Based Paint Hazard Reduction Program. The Department of Natural Resources is designated as the state agency responsible for implementation, administration, and enforcement of such program. The commissioner may delegate such duties to the Environmental Protection Division.

(b) The Board of Natural Resources not later than one year after the effective date of regulations promulgated by the federal Environmental Protection Agency relating to lead paint abatement and renovation certification programs shall issue regulations requiring the development and approval of training programs for the licensing or certification of persons performing lead-based paint hazard detection or lead-based paint activities, which may include, but shall not be limited to, lead inspectors, lead risk assessors, lead project designers, lead firms, lead supervisors, ~~and lead workers of such persons,~~ lead dust sampling technicians, and renovators. The regulations for the approval of training programs shall include minimum requirements for approval of training providers, curriculum requirements, training hour requirements, hands-on training requirements, examinations of competency and proficiency, and training program quality control. The approval program shall provide for reciprocal approval of training programs with comparable requirements approved by other states or the United States. The approval program may be designed to meet the minimum requirements for federal approval under Section 404 of the federal Toxic Substances Control Act and the department may apply for such approval. The department shall establish fees for approval of such training programs.

(c)(1) The Board of Natural Resources not later than one year after the effective date of regulations promulgated by the federal Environmental Protection Agency relating to lead paint abatement and renovation certification programs shall establish training and licensure requirements for lead inspectors, lead risk assessors, lead project designers, lead firms, lead supervisors, ~~and lead workers,~~ renovators, renovation firms, and lead dust sampling technicians. No person shall be licensed under this chapter unless such person has successfully completed the appropriate training program, passed an examination approved by the department for the appropriate category of license, and completed any additional requirements imposed by the board by regulation. The department is authorized to accept any lead-based paint hazard training completed after January 1, 1990, in full or partial satisfaction of the training requirements. The board may establish requirements for periodic refresher training for all licensees as a condition of license renewal. The board shall establish examination fees, license fees, and renewal fees for all

licenses issued under this chapter, provided that such fees shall reflect the cost of issuing and renewing such licenses, regulating licensed activities, and administering the program.

(2) On and after the effective date of regulations promulgated by the board as provided in subsection (b) of this Code section, no person shall perform or represent that such person is qualified to perform any lead-based paint activities unless such person possesses the appropriate licensure or certification as determined by the board or unless such person is:

(A) An owner performing abatement or renovation upon that person's own residential property, unless the residential property is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level;

(B) An employee of a property management company doing ~~routine cleaning and repainting~~ minor repairs and maintenance activities upon property managed by that company where there is insignificant damage, wear, or corrosion of existing lead-containing paint or coating substances; or

(C) An owner routinely ~~cleaning or repainting~~ doing minor repairs and maintenance activities upon his or her property where there is insignificant damage to, wear of, or corrosion of existing lead-containing paint or coating substances.

(3) A person who is employed by a state or county health department or state or federal agency to conduct lead investigations to determine the sources of lead poisonings, as determined by the department, shall be subject to licensing pursuant to paragraph (2) of this subsection as a lead risk assessor but shall not be required to pay any fees as otherwise required under this chapter or under rules and regulations promulgated by the board under this chapter.

(d) The board shall promulgate regulations establishing standards of acceptable professional conduct and work practices for the performance of lead-based paint activities, as well as specific acts and omissions that constitute grounds for the reprimand of any licensee, the suspension, modification, or revocation of a license, or the denial of issuance or renewal of a license.

(e) Written information on the renovation must be provided by the renovation firm or renovator to residents before beginning any renovation activities (except that the written information may be provided after the renovation begins for emergency renovations), in accordance with regulations promulgated by the board.

(f) The lead firm, renovation firm, and renovator must meet record-keeping and reporting requirements established by regulations promulgated by the board.

205 31-41-5.
206 The Board of Natural Resources shall be authorized to promulgate all necessary regulations
207 for the implementation and enforcement of this chapter. In addition to any action which
208 may be taken to reprimand a licensee or to revoke or suspend a license, any person who
209 violates any provision of this chapter or any regulation promulgated pursuant to this
210 chapter or any term or condition of licensure may be subject to a civil penalty of not more
211 than \$10,000.00, to be imposed by the department. If any violation is a continuing one,
212 each day of such violation shall constitute a separate violation for the purpose of computing
213 the applicable civil penalty."

214 **SECTION 2.**

215 All laws and parts of laws in conflict with this Act are repealed.